

DECLARATION
AND POWER OF ATTORNEY
Utility Application

Lyon & Lyon LLP
Docket Information
241/190



As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention **DNA SEQUENCES FROM STAPHYLOCOCCUS AUREUS BACTERIOPHAGE 77 THAT ENCODE ANTI-MICROBIAL POLYPEPTIDES** the specification of which

(Check One)

- ☐ is attached hereto OR
☒ was filed on September 28, 1999 as United States Application Serial No. 09/407,804; PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Date of Filing	Priority Claimed	
			Yes	No

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date
60/110,992	December 3, 1998

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date	Status-Patented, Pending or Abandoned

POWER OF ATTORNEY: As a named inventor, I hereby appoint as my attorneys and/or agents, with full power of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Roland N. Smoot, Reg. No. 18,718; Conrad R. Solum, Jr. Reg. No. 20,467; James W. Geriak, Reg. No. 20,233; Robert M. Taylor, Jr., Reg. No. 19,848; Samuel B. Stone, Reg. No. 19,297; Douglas E. Olson, Reg. No. 22,798; Robert E. Lyon, Reg. No. 24,171; Robert C. Weiss, Reg. No. 24,939; Richard E. Lyon, Jr., Reg. No. 26,300; John D. McConaghy, Reg. No. 26,773; William C. Steffin, Reg. No. 26,811; Coe A. Bloomberg, Reg. No. 26,605; J. Donald McCarthy, Reg. No. 25,119; John M. Benassi, Reg. No. 27,483; James H. Shalek, Reg. No. 29,749; Allan W. Jansen, Reg. No. 29,035; Robert W. Dickerson, Reg. No. 29,914; Roy L. Anderson, Reg. No. 30,240; David B. Murphy, Reg. No. 31,125; James C. Brooks, Reg. No. 29,898; Jeffrey M. Olson, Reg. No. 30,790; Steven D. Hemminger, Reg. No. 30,755; Jerrold B. Reilly, Reg. No. 32,293; Paul H. Meier, Reg. No. 32,274; John A. Rafter, Jr., Reg. No. 31,653; Kenneth H. Ohriner, Reg. No. 31,646; Mary S. Consalvi, Reg. No. 32,212; Lois M. Kwasigroch, Reg. No. 35,579; Lawrence R. LaPorte, Reg. No. 38,948; Robert C. Laurenson, Reg. No. 34,206; Bradford J. Duft, Reg. No. 32,219; Suzanne L. Biggs, Reg. No. 30,158; Richard J. Warburg, Reg. No. 32,327; John M. Johnson, Reg. No. 33,334; Daniel M. Chambers, Reg. No. 34,561; Troy M. Schmelzer, Reg. No. 36,667; Daniel N. Yannuzzi, Reg. No. 36,727; Jessica R. Wolff, Reg. No. 37,261; Howard N. Wisnia, Reg. No. 37,502; Douglas C. Murdock, Reg. No. 37,549; Jeffrey W. Guise, Reg. No. 34,613; F.T. Alexandra Mahaney, Reg. No. 37,668; Charles S. Berkman, Reg. No. 38,077; Edward M. Jordan, Reg. No. 40,666; John C. Kappos, Reg. No. 37,861; Keith Kind, Reg. No. 42,735; Daniel N. Yanuzzi, Reg. No. 36,727; Stephen S. Korniczky, Reg. No. 34,853; Jonathan T. Losk, Reg. No. 39,755; Theodore S. Maceiko, Reg. No. 35,593; Hope E. Melville, Reg. No. 34,874; Jeffrey A. Miller, Reg. No. 35,874; Kurt T. Mulville, Reg. No. 37,194; Clarke W. Neumann, Reg. No. 39,789; Vicki Norton, Reg. No. 40,745; Kenneth S. Roberts, Reg. No. 38,283; Thomas R. Rouse, Reg. No. 40,793; James K. Sakaguchi, Reg. No. 41,285; James K. Sakaguchi, Reg. No. 41,285; Carol A. Schneider, Reg. No. 34,923; Sheryl R. Silverstein, Reg. No. 40,812; Brent D. Sokol, Reg. No. 38,621; Jeffrey D. Tekanic, Reg. No. 36,031; Christopher A. Vanderlaan, Reg. No. 37,747; David E. Wang, Reg. No. 38,358; Lisa Ward Karmelich, Reg. No. 41,421; Michael J. Wise, Reg. No. 34,047; Wesley Ames, Reg. No. 40,893; Charles Balgenorth, Reg. No. 37,586; Thomas J. Brindisi, Reg. No. 40,348; James P. Brogan, Reg. No. 35,833; David T. Burse, Reg. No. 37,104; Bruce G. Chapman, Reg. No. 33,846; Farshad Farjami, Reg. No. 41,014; Charles C. Fowler, Reg. No. 39,675; and Corrine M. Freeman, Reg. No. 37,625.; of LYON & LYON, 633 West Fifth Street, Suite 4700, Los Angeles, California 90071-2066 telephone (619) 552-8400

Send Correspondence to: Richard J. Warburg	LYON & LYON LLP 633 W Fifth St., Suite 4700 Los Angeles, CA 90071	Direct Telephone calls to: 619 552 8400
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* Residence, post office address, citizenship and signature of inventor(s) set forth beginning on next page.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

201	FULL NAME OF INVENTOR	FIRST Name Jerry	MIDDLE Initial	LAST Name Pelletier	
INVENTOR'S SIGNATURE <u>Jerry Pelletier</u>				DATE <u>Nov 24th</u>	
	RESIDENCE & CITIZENSHIP	City Baie-D'Urfe	State or Foreign Country Quebec, Canada	Country of Citizenship Canada	
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202	FULL NAME OF INVENTOR	FIRST Name Philippe	MIDDLE Initial	LAST Name Gros	
INVENTOR'S SIGNATURE <u>Philippe Gros</u>				DATE <u>Nov 24, 1989</u>	
	RESIDENCE & CITIZENSHIP	City St. Lambert	State or Foreign Country Quebec, Canada	Country of Citizenship Canada	
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INVENTOR'S SIGNATURE <u>Michael S. DuBow</u>				DATE <u>Nov. 24, 1989</u>	
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INVENTOR'S SIGNATURE _____				DATE _____	
	RESIDENCE & CITIZENSHIP	City	State or Foreign Country	Country of Citizenship	
	POST OFFICE ADDRESS		City	State or Country	Zip Code
205	FULL NAME OF INVENTOR	FIRST Name	MIDDLE Initial	LAST Name	
INVENTOR'S SIGNATURE _____				DATE _____	
	RESIDENCE & CITIZENSHIP	City	State or Foreign Country	Country of Citizenship	
	POST OFFICE ADDRESS		City	State or Country	Zip Code
206	FULL NAME OF INVENTOR	FIRST Name	MIDDLE Initial	LAST Name	
INVENTOR'S SIGNATURE _____				DATE _____	
	RESIDENCE & CITIZENSHIP	City	State or Foreign Country	Country of Citizenship	
	POST OFFICE ADDRESS		City	State or Country	Zip Code



Applicant or Patentee: Jerry Pelletier, et al.

Serial or Patent No.: 09/407,804

Filed or Issued: September 28, 1999

For: DNA SEQUENCES FROM STAPHYLOCOCCUS AUREUS BACTERIOPHAGE 77 THAT ENCODE ANTI-MICROBIAL POLYPEPTIDES

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(d) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am:

_____ the owner of the small business concern identified below:

X an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF ORGANIZATION: PhageTech, Inc.

ADDRESS OF ORGANIZATION: C.P. 387, Place du Parc, Montreal, Quebec

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled, DNA SEQUENCES FROM STAPHYLOCOCCUS AUREUS BACTERIOPHAGE 77 THAT ENCODE ANTI-MICROBIAL POLYPEPTIDES by inventors Jerry Pelletier, Philippe Gros and Michael DuBow described in

_____ the specification filed herewith.

X application serial number 09/407,804, filed September 28, 1999.

_____ Patent No. _____, issued _____.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

**NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)*

NAME: _____
ADDRESS: _____

[] INDIVIDUAL [] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Dr. Joe Elliott
TITLE OF PERSON IN ORGANIZATION: President & CEO
ADDRESS OF PERSON SIGNING: PhageTech, Inc.
C.P. 387, Place du Parc, Montreal, Quebec

Signature

Date

5 Nov 99